prescribed was rather lenient. Subsequently, the legislature thought that the possession of a wireless transmitter was a graver offence, sometimes involving the security of the State, and so an amendment was introduced in 1949 constituting the possession of such apparatus a graver offence and imposing a more severe punishment. Therefore, it cannot he said that s. 6(1-A), inserted in the Act XVII of 1933 by the amending Act of 1949, is either covered by the provisions of the Indian Telegraph Act, 1885, or a surplusage not serving any definite purpose. Even from the history of the legislation we find it not possible to say that it disclosed an intention different from that envisaged in s. 6-A of the General Clauses Act.

For the aforesaid reasons, we hold that s. 6(1-A) of the Act continued to be on the statute book even after the amending Act of 1949 was repealed by Act XLVIII of 1952, and that it was in force when the offence was committed by the appellant.

The appeal fails and is dismissed.

B.R.T.

FULL BENCH

Before Falshaw, Dulat and Dua, JJ.

CHANAN DAS MUKHI,—*Petitioner.*

versus

THE UNION OF INDIA AND ANOTHER,—*Respondents.*

Letters Patent Appeal No. 62 of 1958.

1959

Sept., 15th

Displaced Persons (Claims) Act (XLV of 1950)—Section 2—Notification issued by the Central Government under, describing the property in respect of which a claim

could be made—Interpretation of—Buildings in rural areas—Whether each building or all the buildings owned by the displaced person should be of the value of Rs. 20,000 or more.

Held, that if a person owns a building in a non-urban area woth Rs. 20,000 or more, he can file a claim in respect of it. If he owns several buildings; each of which fulfils the conditions mentioned in the notification, the claim would be admissible in respect of each of them but each of such several buildings must be of the value of at least Rs. 20,000. In view of the language used there is no justication for reading into the Displaced Persons (Claims) Act, 1950, a provision that the value of different buildings can be added up to qualify all of them under the notification.

The Union of India v. *Bhagat Ram Soni* (1) and *Shri Nand Ram Shah* v. *The Union of India* (2) affirmed; *Sunder Das Bhasin* v. *The Regional Settlement Commissioner, Jaipur and others* (3), disented from.

Letters Patent Appeal under Clause 10 of the Letters Patent, against the order of the Hon'ble Mr. Justice Gurnam Singh, dated the 31st January, 1958, passed in Civil Writ Petition No. 600 of 1956.

Petitioner in person.

S. M. SIKRI, ADVOCATE-GENERAL, for Respondent.

JUDGMENT

Dulat, J.

DULAT, J.—This is an appeal under clause 10 of the letters Patent against the judgment of Gurnam Singh J., dismissing the appellant's petition under article 226 of the Constitution.

The appellant owned some land and some houses and other buildings in a village in Pakistan. On migration to India, he was allotted more than 4 standard acres of land. After, however,

(1) L.P.A. 121 1956
(2) Civil Writ No. 244 of 1958
(3) A.I.R. 1959 Raj. 102

the Displaced Persons (Claims) Act, 1950, was enacted, he put in a separate claim for the village houses. The Act in question was designed primarily for the verification of claims concerning urban property, and section 2 of that Act said—

> "In this Act, unless the context otherwise requires,—
>
> (a) 'claim' means the assertion of a right to the ownership of, or to any interest in,—
>
> (i) any immovable property in West Pakistan which is situate within an urban area, or
>
> (ii) such class of property in any part of West Pakistan other than in any urban area as may be notified by the Central Government in this behalf in the Official Gazette;
>
> * * * * * *"

A notification in the form of a rule was issued by the Central Government under the Act, describing the properties in respect of which a claim could be made. This was in the following words :—

> "(1) Any immovable property situated within an urban area in West Pakistan ;
>
> (2) any immovable property in West Pakistan which forms part of the assets of an industrial undertaking and is situated in any area other than an urban area ;
>
> (3) any other immovable property in West Pakistan comprising of a building situated in any area other than an urban area :

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Provided that where a claimant has been allotted any agricultural land in India and that—

(a) where the agricultural land so allotted exceeds four acres, the value of the building in respect of which the claim is made shall not, according to the present estimated cost of construction, be less than Rs. 20,000;

* * * *".

The remaining part of the notification is not relevant except perhaps the explanation which was in these words—

"*Explanation* 1.—In this rule, the expression 'building' includes :—

(a) any structure in the immediate vicinity of a building without which the building cannot be conveniently occupied or enjoyed ;

(b) any garden, ground, enclosure and out-houses, appurtenant to such building."

The Claims Officer found that none of the houses or buildings, regarding which the claim was made, was individually worth Rs. 20,000 or more, and he, therefore held that the claim was, within the meaning of the notification, inadmissible. It was against this order that the appellant brought a writ petition to this Court which Gurnam Singh, J., dismissed following a Division Bench decision of this Court.

The appellant's contention was, and still is, that instead of valuing each building separately,

in order to find whether it was at least worth Rs. 20,000 or not, the total value of all the buildings should have been considered. The question, therefore, is whether in a claim of this kind concerning rural immovable property the value of each building is to be considered separately, or the value of all the buildings totalled.

This very question came up for consideration before G. D. Khosla, J., sitting alone, in *Bhagat Ram Soni* v. *The Union of India* (1), and Khosla, J., then took the view that it was permissible to add up the value of the buildings owned by a claimant in a village, and, if the total value came to more than the limit mentioned in the notification, the claim was admissible. Against this decision the Union of India appealed and a Division Bench, of which I was a member, disagreed with the view of Khosla, J., and held that each building had to be separately valued and the claim could be admitted only concerning a building the value of which taken by itself came to the required limit. The decision of Khosla, J., was consequently reversed (vide *Union of India* v. *Bhagat Ram Soni* (2)].

The same matter came up before the same Division Bench again in another case, *Shri Nand Ram Shah* v. *The Union of India* (3), and the same view was again adopted. The present Letters Patent appeal came up for admission before G. D. Khosla, J., and myself, and as Khosla, J., was of the view that the decision of the Division Bench reversing his decision needed reconsideration, we agreed to refer the matter to a larger Bench for a more authoritative decision. In this manner, this Letters Patent appeal has come up before us.

(1) Civil Writ No. 167 of 1955
(2) L.A.P. 121 of 1956
(3) C.W. 244 of 1958

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It is somewhat unfortunate that the appellant in this case has not engaged any counsel to address any argument in addition to the arguments raised before the Division Bench in the previous two cases. The appellant, however, has brought to our notice a decision of the Rajasthan High Court in *Sunder Das Bhasin* v. *The Regional Settlement Commissioner, Jaipur, and others* (1), which does support his contention.

Going back to the notification and reading it in the context of the Displaced Persons (Claims) Act, 1950, the meaning to my mind seems clear enough, and it is that if a person owns a building in a non-urban area worth Rs. 20,000 or more, he can filed a claim in respect of it. It is said that the expression 'building' also includes a number of buildings because under the General Clauses Act the singular includes the plural, unless the context indicates otherwise. This is, of course, true, but that only means that if a person owns several buildings, each of which fulfils the condition mentioned in the notification, the claim would be admissible in respect of each of them, but there can be no doubt that each of such several buildings must be of the value of at least Rs. 20,000. There seems no justification for reading into the Act a provision that the value of different buildings can be added up to qualify all of them under the notification, and I have no doubt that if such were the intention, very different language would have been used by the notification.

It is suggested that if the value of different buildings is not allowed to be totalled up, the result would be iniquitous, and it was this aspect of the matter which seems to have weighed most with the Rajasthan High Court in *Sunder Das*

(1) 1959 Ragisthan 102

Bhasin v. *The Regional Settlement Commissioner, Jaipur, and others* (1), Modi, J., who wrote the main judgment, put the matter thus—

> "Let us suppose that in a given case a displaced person has three such buildings, and the value of each of these buildings is somewhere near Rs. 9,000 taken separately, the total amounting to Rs. 27,000. According to the interpretation proposed on behalf of the opposite parties, and which has found favour with the Division Bench of the Punjab High Court in *Bhagat Ram Soni's case* (2), such a person would not be entitled to any compensation. On the other hand, if this very person had only one rural property of the value of Rs. 10,000 or over, he would have been entitled to separate compensation in lieu of it.
>
> I can see no justice or equity behind such a rule, and in my opinion, so interpreted, it should lead to manifest inequality and injustice."

It seems to me that this reasoning proceeds on the incorrect assumption that a person owning a building in a non-urban area worth less than the minimum mentioned in the rule receives no compensation, and I have little doubt that if the correct facts concerning the resettlement of displaced persons had been stated, such a consideration would not have arisen. The fact is that every displaced person owning houses or buildings in a rural area has been separately compensated, and the only buildings left out of consideration were those each of which was worth Rs. 20,000 or more. This

(1) A.I.R. 1959 Raj. 102.
(2) L.P.A. 121 of 1956

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matter is fully explained by Shri Tarlok Singh in his Land Resettlement Manual at page 181 where he says—

> "To ensure fairness in the distribution of houses among the allottees, it was proposed, for instance, that the size of the land allotment made to a person and the type of house abandoned by him in Western Pakistan should be the major factors to be considered. For each standard acre of land one mark was to be allowed and, subject to a maximum of 20 marks, houses abandoned in Western Pakistan were to be valued at the rate of one mark for each 1,000 of the value of the house. Houses above the value of Rs. 20,000 were excluded from allotment, as they were to be dealt with according to the terms of an earlier agreement between India and Pakistan. In each village after their relative rights had been valued allottees could pick houses according to their place in the village list."

In Appendix XI of the same Manual, a summary of the principles of allotment of rural evacuee houses is contained. Paragraph 6 of it states—

> "Houses will be allotted taking into consideration the size of holding of allottees in that village. The biggest allottee will be entitled to the best house in the village, provided he owned equally good house in West Punjab. The rule should be followed in the descending order."

and paragraph 21 says—

> "Under the Inter-Dominion Agreement houses in rural areas of the value of Rs. 20,000 or above are liable to exchange or sale and, therefore, such houses will be excluded from allotment."

In the face of these facts it is hardly possible to maintain that the notification in question, when it excluded from the category of a claim such a building as was worth less than Rs. 20,000, it denied compensation to owners of rural buildings of lesser value, such owners had already been compensated under a different scheme. As I have already mentioned, the Displaced Persons (Claims) Act, 1950, was primarily intended to invite claims to urban immovable property, but since it was found that certain rural houses and buildings had been left out of consideration when compensating displaced persons in respect of their rural property, it was decided to invite claims regarding such buildings also. There is no doubt that the buildings left out of consideration were those which individually were worth Rs 20,000 or more, and the purpose of the notification thus was to admit claims regarding those buildings each of which was worth Rs 20,000 or more, With great respect to the learned Judges of the Rajasthan High Court, therefore, it appears to me that their anxiety in this connection was hardly justified by the facts—which facts apparently were not brought to their notice. The other part of the argument, that a building worth a little less than the minimum value mentioned in the notification is to be excluded from the category of a claim while another building worth a little more than the value of Rs 20,000 is to be included—thus giving rise to

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some hard cases—, is scarcely worth notice because such hardship inevitably arises on every attempt at classification, for wherever the line is drawn certain cases very close to that line will occur. That, in my opinion, cannot be a ground for stretching the meaning of the classification, and as I have already said the plain language of the notification in question leaves no doubt that a claim was admissible only in respect of a building which taken by itself was of the minimum value mentioned in the notification. I would, therefore, hold that the decision of this Court in *Bhagat Ram Soni's case* (1), was correct, and there is no reason to depart from it.

In the result, this appeal must fail, but I would in the circumstances not burden the appellant with costs.

Falshaw, J.

FALSHAW, J.—I agree.

Dua, J.

DUA, J.—I agree.

B.R.T.

CRIMINAL MISCELLANEOUS

Before Tek Chand, J.

KIDAR NATH,—*Petitioner.*

versus

THE STATE OF PUNJAB AND OTHERS,—*Respondents.*

Criminal Miscellaneous No. 686 of 1959.

1959

Sept., 17th

Constitution of India (1950)—Article 226—Writ of habeas corpus—*Nature, scope and extent of—Writ, whether punitive—Return to the writ—Whether can be filed by a third party—Criminal jurispondence—Resort to inquisitonial methods of brutality for detecting crime—Whether countenanced.*

(1) L.P.A. 121 1956